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In re Application of: DARLEY, Ian, et al.	:	
U.S. Application No.: 10/586,524	:	DECISION ON PETITIONS
Int'l Application No: PCT/US2004/043288	:	UNDER 37 CFR 1.137(B) AND
Int'l Filing Date: 27 December 2004	:	37 CFR 1.182
Claimed Priority Date: 24 December 2003	:	
Atty Docket No.: COCH-0125-US1	:	
For: TRANSFORMABLE SPEECH	:	
PROCESSOR MODULE FOR A	:	
HEARING PROSTHESIS	:	

The present decision is issued in response to applicants' 19 July 2006 filing of the "Petition For Revival Of An International Application Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" and the document entitled "Evidence Regarding Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," which requests correction of the claimed priority date and is treated herein as a petition under 37 CFR 1.182.

Applicants have paid the petition fee for the petition under 37 CFR 1.137(b). Deposit Account No. 10-0233 will be charged the \$400 petition fee required for the petition under 37 CFR 1.182.

**BACKGROUND**

On 27 December 2004, applicants filed international application PCT/US2004/043288. The international application claimed priority to Australian Provisional Application No. AU2003907138. In the PCT Request filed 27 December 2004, applicants identified the filing date of this priority application as 24 December 2004; however, the correct filing date for the priority application is 24 December 2003. The priority date was not corrected during the processing of the international application.

On 19 July 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee, the petition for revival under 37 CFR 1.137(b) considered herein, and the correspondence treated herein as a petition under 37 CFR 1.182 to correct the priority date for purposes of the present national stage application.

## DISCUSSION

### **1. Petition Under 37 CFR 1.182 To Correct Priority Date:**

Applicants state that, as the result of a typographical error, the filing date of the Australian priority application listed in the PCT Request (Form PCT/RO/101) filed 27 December 2004 was entered in error. Specifically, applicants' identified the priority date as 24 December 2004, rather than 24 December 2003. This error was not corrected during the international phase. Applicants now request that, for purposes of the present U.S. national stage application, the priority date be corrected to 24 December 2003.

Because the error in the claimed priority date resulted from applicants' error, correction of the error requires a petition under 37 CFR 1.182. Such a petition requires payment of the required petition fee and an acceptable explanation regarding the error in the priority date claimed and the appropriateness of the requested correction.

Here, applicants have authorized a charge for required fees and have provided an adequate explanation regarding the desired correction (in addition, a review of the certified copy of the priority application confirms that the correct filing date for this application is 24 December 2003). These materials satisfy the requirements for a grantable petition. Correction of the claimed priority date herein to 24 December 2003, the actual filing date of the Australian priority application, is therefore appropriate.

### **2. Petition For Revival Under 37 CFR 1.137(b):**

Based on the corrected priority date of 24 December 2003, international application PCT/US2004/043288 became abandoned as of midnight on 24 June 2006, i.e., thirty months after the priority date. Revival of the application is therefore required.

The petition to revive under 37 CFR 1.137(b) filed 19 July 2006 in the above-captioned application is appropriately granted, as follows:

Applicants' statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirement of 37 CFR 1.137(b)(3).

Applicants have submitted the basic national fee and the required petition fee, and the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application is granted as to the United States of America.

## CONCLUSION

The petition under 37 CFR 1.182 to correct the claimed priority date from 24 December 2004 to 24 December 2003 is **GRANTED**.

The petition for revival under 37 CFR 1.137(b) is **GRANTED**.

Deposit Account No. 10-0233 will be charged the \$400 petition fee required for the petition under 37 CFR 1.182.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for further processing in accordance with this decision, including the mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497 and the surcharge for filing the oath or declaration later than thirty months after the priority date.

A handwritten signature in black ink, appearing to read 'R. Ross'.

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